

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

WORLDVENTURES HOLDINGS, LLC, *et al.*,

Plaintiffs,

v.

ARIIX, LLC, *et al.*,

Defendants.

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Civil Action No.: 4:18-cv-00393-ALM-KPJ

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On August 1, 2019, the Magistrate Judge entered proposed findings of fact and recommendations (Dkt. #511) that Counterclaim-Defendants WorldVentures Holdings, LLC, et al.'s ("WorldVentures") Motion to Dismiss Jonathan McKillip's Amended Counterclaims (the "Motion") (Dkt. #326) be granted in part and denied in part. WorldVentures filed objections (Dkt. #530); Jonathon McKillip ("McKillip") filed a response to the objections (Dkt. #537).

A party who files timely written objections to a magistrate judge's report and recommendation is entitled to a de novo review of those findings or recommendations to which the party specifically objects. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(2)-(3). Objections to a report must specifically identify portions of the report and the basis for those objections. FED. R. CIV. P. 72(b); *see also Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (explaining that if the party fails to properly object because the objections lack the requisite specificity, then de novo review by the court is not required.). In other words, a party objecting to

a magistrate judge's report must specifically identify those findings to which he or she objects. Moreover, the District Court need not consider frivolous, conclusory, or general objections. *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), overruled on other grounds by *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

The Magistrate Judge recommended that the counterclaims brought by McKillip not be dismissed because: (1) McKillip does have standing to pursue declaratory relief as stated in his Amended Counterclaims; (2) McKillip's counterclaims are not duplicative of his affirmative defenses; (3) McKillip need not join all WorldVentures "Representatives" to be entitled to declaratory relief; and (4) particular statements in the Amended Counterclaims which were applicable to the prior complaint, but not the present Second Amended Complaint, are unnecessary and superfluous to support counts eight through ten of the Amended Counterclaims. The Magistrate Judge recommended that McKillip's request for attorneys' fees be dismissed because McKillip is not entitled to attorneys' fees under any of the pled counterclaims.

McKillip did not object to the Magistrate Judge's findings, and in fact, requests that the Court adopt the findings of the Magistrate Judge as the order of the Court (Dkt. #537 at 5). WorldVentures has not specifically objected to any of the Magistrate Judge's findings. Instead, WorldVentures reiterates the same arguments made in its Motion (Dkt. #326) and reply (Dkt. #383): the counterclaims are duplicative of McKillip's affirmative defenses; McKillip does not have standing to pursue declaratory relief as stated in his Amended Counterclaims; McKillip is not entitled to declaratory relief; and McKillip relies on false statements to support counts eight through ten of the Amended Counterclaims. Although, WorldVentures' general objections need not even be considered by the Court, the Court finds WorldVentures has failed to show any of its objections have merit.

Having received the report of the United States Magistrate Judge, having considered each of WorldVentures' timely filed objections (Dkt. #530), and having conducted a de novo review, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report (Dkt. #511) as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that WorldVentures' Motion to Dismiss McKillip's Amended Counterclaims (Dkt. #326) is **GRANTED IN PART and DENIED IN PART**. WorldVentures' request that McKillip's Amended Counterclaims be dismissed is **DENIED**. WorldVentures' request that McKillip's request for attorneys' fees be dismissed is **GRANTED**.

IT IS SO ORDERED.

SIGNED this 8th day of September, 2019.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE